

# Traffic Safety Facts

## Laws

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## Blood Alcohol Concentration Test Refusal Laws

### Background

The National Highway Traffic Safety Administration (NHTSA) encourages States to provide for enhanced sanctions for drivers who refuse to submit to a blood alcohol concentration (BAC) test after probable cause for impaired driving is established. Enhanced sanctions for refusal should be stricter than those imposed on offenders who submit to and fail the test.

The BAC from a driving-while-impaired (DWI) offender is one of the most valuable pieces of evidence in an impaired-driving case. DWI offenders who refuse to submit to tests are able to deny the prosecution this important piece of evidence. Enhanced sanctions for refusal remove the motivation for offenders to refuse.

### Key Facts

- There are nearly 1.5 million DWI arrests in the United States each year.
- All States have some form of implied consent statute. These laws are based on the principle that when people drive, they have implicitly consented to submit to a lawfully-requested test to determine the alcohol content of their blood, breath, urine, or other bodily substance if suspected of impaired driving.
- State laws vary widely with regard to administrative and criminal penalties for refusing to submit to a chemical test. All States but one (Nevada) have administrative sanctions for refusal.
- As of October 2005, 19 States have criminal sanctions for failure to submit to a BAC test. In addition, as of January 2006, 41 States and the District of Columbia have adopted some form of administrative license revocation.
- Refusal is a separate crime in 10 States.
- A variety of organizations, including Mothers Against Drunk Driving, the National

Transportation Safety Board, and The Century Council (which is supported by the Nation's leading distillers) actively support enhanced penalties for offenders who refuse to submit to BAC testing.

- A refusal is admissible in criminal cases in 45 States and the District of Columbia and is admissible in civil cases in 15 States and the District of Columbia.

The percentage of offenders who refuse a breath test has been a problem in many States. With new, stronger laws and sanctions (sometimes triggered by high BAC levels) being enacted across the country, NHTSA is currently studying breath test refusal rates.

In 2005, NHTSA released an interim report of a breath test refusal study. The study included a review of administrative and criminal sanctions for breath test refusal in each State, using the *Digest of State Alcohol-Highway Safety Related Legislation* (National Highway Traffic Safety Administration, 2002) and the *Implied Consent Laws* (American Prosecutor Research Institute, 2002). The key law provisions are summarized in the document.

### Inside This Issue

- Background
- Key Facts
- References

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## References

*Breath Test Refusals In DUI Enforcement: An Interim Report.* Pruesser Research Group for National Highway Traffic Safety Administration, Washington, DC, May 2005, DOT HS 809 876.

*Enhanced Sanctions for Higher BACs: Evaluation of Minnesota's High BAC Law.* National Highway Traffic Safety Administration, Washington, DC, DOT HS 809 677, May 2004 (which determines the impact of Minnesota's high BAC law on BAC test refusals in the State).



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Reports and additional information are available from your State Highway Safety Office; the NHTSA Regional Office serving your State; NHTSA Headquarters, Office of Impaired Driving and Occupant Protection, ATTN: NTS-111, 400 Seventh Street, SW., Washington, DC 20590; 202-366-2683; or NHTSA's Web site at [www.nhtsa.gov](http://www.nhtsa.gov).